,	E				Identification Of All References From
Ket. No.	Term(s) to be Construed	Patent(s)	Claim(s)	Plaintiffs' Proposed Construction	The Specification And Prosecution History And Identification Of
					Extrinsic Evidence Relied Upon
	extract	5,968,567	18	The substance containing	Intrinsic evidence:
				beneficial amounts of Phase II	'567 patent, Claims 9, 16, 18, col. 22, Il.
		6,177,122	1, 2, 5, 6, 7,	enzyme inducers and/or their	22-32, 53-55, 60-61;
			8, 9, 10, 12	precursors that results from	'895 patent, Claim 15, col. 1, Il. 15-26,
				manipulation of one or more of	col. 6, l. 65-col. 7, l. 3, col. 11, ll. 18-34,
				cruciferous sprouts, seeds,	col. 22, 11. 48-58;
				plants, and/or plant parts,	'122 patent, Claims 1, 2, 5-10, 12, col.
				where the manipulation causes	21, 1. 55-col. 22, 1. 34;
				the separation of component	'770 patent, Claims 10, 13, 15-24, 26,
				fractions of the cruciferous	col. 22, 11. 37-45, 50-51, 54-67, col. 23, 1.
				sprouts, seeds, plants, and/or	1-col. 24, 1. 4, col. 24, 11. 7-8;
				plant parts.	Exh. 5F ('770 history) at 5F41.
					The invention – '895 patent:
					col. 1, 11. 14-65;
					col. 1, 1. 66-col. 2, 1. 7;
					col. 2, 1. 36-col. 5, 1. 67;
					col. 6, 11. 27-37;
					col. 6, 1. 65-col. 7, 1. 3;
					col. 8, 11. 14-18;
					col. 11, II. 37-60.
					Extrinsic evidence:
					Exh. 7 (Sybert Report), ¶¶ 24-44;
					Exh. 12 (Ziegler Depo), p. 42, 1l. 3-17;
					Exh. A (B000021-23);
					Exh. B (CSC003675-84);
					Exh. C (CSC000680);
					Exh. D (CSC002976).

Pursuant to Paragraph 3(h) of the Scheduling Order dated November 14, 2007.

Patent(s) Claim(s) Claim(s) Construction Claim(s) Proposed Construction Claim(s) Construction Claim(s) Construction Construction Extrinsic Evidence Relied Upon Legistron Construction Claim(s) Construction Claim(s) Construction Construction Claim(s) Construction Claim(s) Construction Claim(s) Construction Claim(s) Construction Claim(s) Construction Claim(s) Clai		5 14, 15	5,968,567 9, 16, 18 of Phase II enzyme inducers 22, 11. 40-48;	and/or their precursors. '567 patent, Claims 9, 16, 19, col. 22, 11.	6,242,018 1, 2 (11, 27-34; (11, 27-34; (11, 27-34)) (11, 27-34)		7,303,770 10, 13, 15, 15-44, 20, 16, 17, 18. col. 22, 11. 37-46, 51-52, 1. 54-col. 24, 1.			The specification 1 36-col 5 1 67. col	6. II. 27-37. col. 11, 11. 37-60; col. 6, 11.	27-37; col. 6, l. 65-col. 7, l. 3; col. 11, ll.	37-60.	The invention – '895 patent:	col. 1, II. 14-65;	col. 1, 1. 66 - col. 2, 1. 7;	col. 2, 1. 36 - col. 5, 1. 67;	col. 6, 11. 27-37;	col. 6, 1. 65 - col. 7, 1. 3;	col. 8, 11. 14-18;	col. 11, 11. 37-60.	Extrinsic Evidence:	121. 7 (St. 124 D) 0.00 (#) 0.00
Claim(s)	3lank	5 14, 15	9, 16, 18	6.7.8.12				19, 20, 21,	23, 24, 26														
Term(s) to be Construed	Row Intentionally Left Blank	Food product 5,7	5,9	9	6,2	1	7,3																
Ref.	2.	3.																					_

Ref	Torm(s) to he			Plaintiffe' Dronocod	Identification Of All References From The Specification And Prosecution
No.	Construed	Patent(s)	Claim(s)	Construction	History And Identification Of
					Extrinsic Evidence Relied Upon'
4.	Human Food	5,968,567	9, 16, 18	Plaintiffs disagree that this	See evidence cited above for "food
	Product			term requires construction	product."
		7,303,770	10, 13, 15,	separately from the	
			16, 17, 18,	construction of the term "food	See also, '895 patent, col. 6, l. 31
			19, 20, 21,	product." See above.	("salads, drinks or sandwiches"); Il. 34-
			23, 24, 26	Accordingly, a "human food	35 ("Breads, teas, soups, cereals, pills
				product" is simply a "food	and tablets"); col. 10, ll. 8-16 ("A sprout
				product" which is suitable for	is suitable for human consumption if it
				human consumption.	does not have non-edible substrate such
				•	as soil attached or clinging to it
					washing may be required to achieve a
					sprout suitable for human consumption.")
5.	Cruciferous;	5,725,895	14, 15	Plaintiffs disagree that this	Intrinsic evidence:
	Crucifer			term requires special	The specification
		5.968.567	9. 16. 18	construction. "Cruciferous"	'895 patent, col. 10, 11. 32-33.
				and "Crucifer" are	•
		6,177,122	1, 2, 5, 6, 7,	mean plants	The invention – '895 patent:
			8, 9, 10, 12	of the family Cruciferae.	col. 1, 11. 14-65;
					col. 7, 1. 66 - col. 2, 1. 7;
					col. 2, II. 19-43;
		6,242,018	1, 2		col. 6, 1. 65 - col. 7, 1. 3;
					col. 8, II. 14-18.
		7,303,770	10, 13, 15,		
			16, 17, 18,		
			19, 20, 21,		
			22, 23, 24,		
			26		

Ref. No.	Term(s) to be Construed	Patent(s)	Claim(s)	Plaintiffs' Proposed Construction	Identification Of All References From The Specification And Prosecution History And Identification Of Extrinsic Evidence Relied Upon ¹
9	Plant tissue	7,307,770	10, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26	Plaintiffs disagree that this term requires special construction. "Plant tissue" is any tissue of a plant, including sprouts, seeds, plants, and plant parts.	Intrinsic evidence: The claims '770 patent, col. 22, Il. 37-45; col. 22, Il. 54-67; col. 24, Il. 7-8. The specification '895 patent, col. 9, Il. 4-6. The invention – '895 patent: col. 1, Il. 14-65;
					col. 7, 1. 66 - col. 2, 1. 7; col. 2, 11. 19-43; col. 6, 1. 65 - col. 7, 1. 3; col. 8, 11. 14-18.
7.	Non-toxic levels of indole glucosinolates and their breakdown products and goitrogenic hydroxybutenyl glucosinolates	5,725,895 6,242,018	14, 15 2	Plaintiffs disagree that this term requires special construction. There is no evidence that one of ordinary skill in the art would not understand how to determine what levels of the recited compounds are toxic.	Intrinsic evidence: '895 patent: col. 1, Il. 22-26; col. 11, Il. 8-16. The invention – '895 patent: col. 1, Il. 14-65; col. 1, I. 66 - col. 2, I. 7; col. 2, I. 36 - col. 5, I. 67; col. 6, Il. 27-37; col. 6, Il. 27-37; col. 6, Il. 41-18; col. 8, Il. 14-18; col. 11, Il. 37-60.

Plaintiffs' Proposed The Specification And Prosecution Construction History And Identification Of Extrinsic Evidence Relied Upon	Intrinsic evidence: '567 patent, Claims 9, 16, 18, col. 22, II. 22-32, 53-55, 60-61; term "extracting." See "extract." above. Applying Plaintiffs' proposed construction of "extract," this construction of "extract," this plants, or plant parts to a noncierous seeds, sprouts, toxic solvent in a manner that cruciferous sprouts and/or plant parts, and component fraction contains beneficial amounts of glucosinolates and isothiocyanates. Extrinsic evidence: Intrinsic evidence:
Claim(s)	21
Patent(s)	5,725,895
Term(s) to be Construed	Extracting glucosinolates and isothiocyanates with a non-toxic solvent and isothiocyanates from cruciferous seeds, sprouts, plants or plant parts
Ref. No.	∞

Filed 05/09/2008

Term(s) to be Construed Pa	Patent(s)	Claim(s)	Plaintiffs' Proposed Construction	Identification Of All References From The Specification And Prosecution History And Identification Of
1	60 573	0 1 / 10	11 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1	Extrinsic Evidence Relied Upon
	7,00,006,0	9, 10, 18	Figuritis disagree that this term requires special	'567 natent Claims 9 16 18 col. 22 11.
7.3(7.303.770	10, 13, 15.	construction, other than the	22-32, 53-55, 60-61;
		16, 17, 18,	term "extracting." See	'895 patent, Claim 15, col. 1, 11. 15-26,
,		19, 20, 21,	"extract" above.	col. 6, 1. 65-col. 7, 1. 3, col. 11, 11. 18-34,
		22, 23, 24,		col. 22, 11. 48-58;
		26	Applying Plaintiffs' proposed	'122 patent, Claims 1, 2, 5-10, 12, col.
			construction of "extract," the	21, 1. 55-col. 22, 1. 34;
			term means manipulating one	'770 patent, Claims 10, 13, 15-24, 26,
			or more of cruciferous sprouts,	col. 22, 11. 37-45, 50-51, 54-67, col. 23, 1.
			seeds, plants, and/or plant	1-col. 24, l. 4, col. 24, ll. 7-8;
			parts, where the manipulation	Exh. 5F ('770 history) at 5F41.
	,		causes the separation of	
			component fractions of the	The invention – '895 patent:
			cruciferous sprouts, seeds,	col. 1, Il. 14-65;
-			plants, and/or plant parts, and	col. 1, 1. 66 - col. 2, 1. 7;
				col. 2, 1. 36 - col. 5, 1. 67;
			fraction contains beneficial	col. 6, 11. 27-37;
			amounts of glucosinolates and	col. 6, 1. 65 - col. 7, 1. 3;
			isothiocyanates.	col. 8, 11. 14-18;
				col. 11, 11. 37-60.
				Extrinsic evidence:
				Exh. 7 (Sybert Report), ¶¶ 24-44;
				Exh. 12 (Ziegler Depo), p. 42, ll. 3-17;
				Exh. A (B000021-23);
				Exh. B (CSC0036/5-84); Exh. C (CSC000680):
				Exh. D (CSC002976).

Construed Removing the extracted sprouts, seeds, or a combination thereof from said solvent	Patent(s) 5,968,567	Claim(s) 9, 16, 18	Plaintiffs' Proposed Construction Plaintiffs disagree that this term requires special construction, other than the term "extracted." See "extract" above. Applying Plaintiffs' proposed construction of "extract," this term means that, following exposure of sprouts and/or seeds to a solvent, the fraction containing the solvent is separated from the fraction containing the sprouts and/or seeds.	The Specification And Prosecution History And Identification Of Extrinsic Evidence Relied Upon Intrinsic evidence: '567 patent, Claims 9, 16, 18, col. 22, II. 22-32, 53-55, 60-61; '895 patent, Claim 15, col. 1, II. 15-26, col. 6, I. 65-col. 7, I. 3, col. 11, II. 18-34, col. 22, II. 48-58; '122 patent, Claims 1, 2, 5-10, 12, col. 21, I. 55-col. 22, I. 34; '770 patent, Claims 10, 13, 15-24, 26, col. 22, II. 37-45, 50-51, 54-67, col. 23, I. 1-col. 24, I. 4, col. 24, II. 7-8; Exh. 5F ('770 history) at 5F41. The invention – '895 patent: col. 1, II. 14-65; col. 2, I. 36 - col. 2, I. 7; col. 2, I. 36 - col. 5, I. 67;
				col. 6, 1. 65 - col. 7, 1. 3; col. 8, 1l. 14-18; col. 11, 1l. 37-60. Extrinsic evidence: Exh. 7 (Sybert Report), ¶¶ 24-44; Exh. 12 (Ziegler Depo), p. 42, 1l. 3-17; Exh. A (B000021-23); Exh. B (CSC003675-84); Exh. C (CSC000680); Exh. D (CSC002976).

Recovering the strated blue construction Recovering the 5,725,895 15 term requires special solutionists of the three construction, other than the separation of the fraction of the fraction rich in glucosinolates and isothiocyanates from the fraction of the fraction rich in glucosinolates and isothiocyanates is retained for confirming sprouts and/or seeds from the fraction rich in glucosinolates and isothiocyanates is retained for confurther processing.	Ref.	Term(s) to be			Plaintiffs' Proposed	Identification Of All References From The Specification And Prosecution
Recovering the 5,725,895 15 Plaintiffs disagree that this extracted glucosinolates 5,968,567 9, 16, 18 term requires special construction, other than the term "extracted." See isothiocyanates "extract." above. Applying Plaintiffs' proposed construction of "extract," this term means that, following the separation of the fraction containing the solvent, the fraction containing the solvent, the fraction rich in glucosindates and isothiocyanates is retained for further processing.		Construed	Patent(s)	Claim(s)	Construction	History And Identification Of Extrinsic Evidence Relied Upon ¹
acted 3,968,567 9, 16, 18 construction, other than the term "extracted." See "extract" above. Applying Plaintiffs' proposed construction of "extract," this term means that, following the separation of the fraction containing sprouts and/or seeds from the fraction containing the solvent, the fraction rich in glucosinolates and isothicoyanates is retained for further processing.		Recovering the	5,725,895	15	Plaintiffs disagree that this	Intrinsic evidence:
hiocyanates hiocya		extracted			term requires special	'567 patent, Claims 9, 16, 18, col. 22, ll.
hiocyanates "extract" above. Applying Plaintiffs' proposed construction of "extract," this term means that, following the separation of the fraction containing sprouts and/or seeds from the fraction containing the solvent, the fraction rich in glucosinolates and isothiocyanates is retained for further processing.		glucosinolates	5,968,567	9, 16, 18	construction, other than the	22-32, 53-55, 60-61;
"extract" above. Applying Plaintiffs' proposed construction of "extract," this term means that, following the separation of the fraction containing from the fraction containing the solvent, the fraction rich in glucosinolates and isothiocyanates is retained for further processing.		and			term "extracted." See	'895 patent, Claim 15, col. 1, II. 15-26,
70		isothiocyanates			"extract" above.	col. 6, 1. 65-col. 7, 1. 3, col. 11, 11. 18-34,
70						col. 22, 11. 48-58;
					Applying Plaintiffs' proposed	'122 patent, Claims 1, 2, 5-10, 12, col.
70					construction of "extract," this	21, 1. 55-col. 22, 1. 34;
					term means that, following the	'770 patent, Claims 10, 13, 15-24, 26,
					separation of the fraction	col. 22, 11. 37-45, 50-51, 54-67, col. 23, 1.
					containing sprouts and/or seeds	1-col. 24, 1. 4, col. 24, 11. 7-8;
					from the fraction containing	Exh. 5F ('770 history) at 5F41.
etained for	_				the solvent, the fraction rich in	
	_					The invention – '895 patent:
						col. 1, Il. 14-65;
col. 2, l. 36 - col. 5, l. 67; col. 6, ll. 27-37; col. 6, ll. 65 - col. 7, l. 3; col. 8, ll. 14-18; col. 11, ll. 37-60. Extrinsic evidence: Exh. 7 (Sybert Report), ¶ 24-44; Exh. 12 (Ziegler Depo), p. 42, ll. 3-17; Exh. A (B000021-23); Exh. B (CSC003675-84); Exh. D (CSC000680); Exh. D (CSC002976).						col. 1, 1. 66 - col. 2, 1. 7;
col. 6, Il. 27-37; col. 6, I. 65 - col. 7, I. 3; col. 8, Il. 14-18; col. 11, Il. 37-60. Extrinsic evidence: Exh. 7 (Sybert Report), ¶¶ 24-44; Exh. 12 (Ziegler Depo), p. 42, Il. 3-17; Exh. A (B000021-23); Exh. B (CSC000680); Exh. D (CSC000680);	_					col. 2, 1. 36 - col. 5, 1. 67;
col. 6, 1. 65 - col. 7, 1. 3; col. 8, 11. 14-18; col. 11, 11. 37-60. Extrinsic evidence: Exh. 7 (Sybert Report), ¶¶ 24-44; Exh. 12 (Ziegler Depo), p. 42, 11. 3-17; Exh. A (B000021-23); Exh. B (CSC003675-84); Exh. D (CSC002976).						col. 6, 11. 27-37;
col. 11, 11. 37-60. Extrinsic evidence: Exh. 7 (Sybert Report), ¶ 24-44; Exh. 12 (Ziegler Depo), p. 42, 11. 3-17; Exh. B (CSC003675-84); Exh. D (CSC000680); Exh. D (CSC002976).	_					col. 6, 1. 65 - col. 7, 1. 3;
Extrinsic evidence: Exh. 7 (Sybert Report), ¶¶ 24-44; Exh. 12 (Ziegler Depo), p. 42, II. 3-17; Exh. A (B000021-23); Exh. B (CSC003675-84); Exh. D (CSC000680); Exh. D (CSC002976).						col. 8, 11. 14-18;
Extrinsic evidence: Exh. 7 (Sybert Report), ¶¶ 24-44; Exh. 12 (Ziegler Depo), p. 42, ll. 3-17; Exh. A (B000021-23); Exh. B (CSC003675-84); Exh. D (CSC000680); Exh. D (CSC002976).						col. 11, II. 37-60.
Exh. 7 (Sybert Report), ¶¶ 24-44; Exh. 12 (Ziegler Depo), p. 42, ll. 3-17; Exh. A (B000021-23); Exh. B (CSC003675-84); Exh. C (CSC000680); Exh. D (CSC002976).						Extrinsic evidence:
Exh. 12 (Ziegler Depo), p. 42, 1l. 3-17; Exh. A (B000021-23); Exh. B (CSC003675-84); Exh. C (CSC000680); Exh. D (CSC002976).						Exh. 7 (Svbert Report), ¶¶ 24-44:
Exh. A (B000021-23); Exh. B (CSC003675-84); Exh. C (CSC000680); Exh. D (CSC002976).						Exh. 12 (Ziegler Depo), p. 42, 1l. 3-17;
Exh. B (CSC003675-84); Exh. C (CSC000680); Exh. D (CSC002976).						Exh. A (B000021-23);
Exh. C (CSC000680); Fxh. D (CSC002976).	_					Exh. B (CSC003675-84);
						Exh. C (CSC000680); Exh. D (CSC002976)

Identification Of All References From The Specification And Prosecution History And Identification Of Extrinsic Evidence Relied Upon ¹	100 100
Plaintiffs' Proposed Construction	Plaintiffs disagree that this term requires special construction, other than the term "extracted." See "extract" above. Applying Plaintiffs' proposed construction of "extract," this term means drying the glucosinolate- and isothiocyanate-rich fraction retained in the previous step.
Claim(s)	16, 18
Patent(s)	5,968,567
Term(s) to be Construed	Drying said extracted glucosinolates and isothiocyanates
Ref. No.	12.

Identification Of All References From The Specification And Prosecution History And Identification Of Extrinsic Evidence Relied Upon 1	1nt
Plaintiffs' Proposed Construction	Plaintiffs disagree that this term requires special construction, other than the term "extract." See "extract." above. Applying Plaintiffs' proposed construction of "extract," this term means a substance containing beneficial amounts of Phase II enzyme inducers and/or their precursors that results from the method of any of claims 9, 16, or 17.
Claim(s)	81
Patent(s)	5,968,567
Term(s) to be Construed	An extract prepared according to the method of any one of claims 9, 16 or 17
Ref. No.	13.

Rof					Identification Of All References From
	Term(s) to be	D.40.4(c)	5	Plaintiffs' Proposed	The Specification And Prosecution
Ö.	Construed	ratent(s)	Claim(s)	Construction	Fisiory And Identification Of Extrinsic Evidence Relied Upon
4	A non-toxic solvent extract of crucifer seed or cruciferous sprout	6,177,122	1, 2, 5, 6, 7, 8	Plaintiffs disagree that this term requires special construction, other than the term "extract." See "extract," above. Applying Plaintiffs' proposed construction of "extract," this term means the fraction containing beneficial amounts of Phase II enzyme inducers and/or their precursors that results from exposure of crucifer seed or sprouts to a non-toxic solvent, where the exposure to solvent causes the separation of component fractions of the cruciferous seed or sprouts.	Intrinsic evidence: '567 patent, Claims 9, 16, 18, col. 22, 1l. 22-32, 53-55, 60-61; '895 patent, Claim 15, col. 1, 1l. 15-26, col. 6, 1. 65-col. 7, 1. 3, col. 11, 1l. 18-34, col. 22, 1l. 48-58; '122 patent, Claims 1, 2, 5-10, 12, col. 21, 1. 55-col. 22, 1. 34; '770 patent, Claims 10, 13, 15-24, 26, col. 22, 1l. 37-45, 50-51, 54-67, col. 23, 1. 1-col. 24, 1. 4, col. 24, 1l. 7-8; Exh. 5F ('770 history) at 5F41. The invention − '895 patent: col. 1, 1l. 14-65; col. 2, 1. 36 - col. 2, 1. 7; col. 6, 1l. 27-37; col. 6, 1l. 27-37; col. 6, 1l. 27-37; col. 6, 1l. 37-60. Extrinsic evidence: Exh. 7 (Sybert Report), ¶ 24-44; Exh. 7 (Sybert Report), ¶ 24-44; Exh. A (B000021-23); Exh. B (CSC003675-84); Exh. C (CSC000680);

Term(s) to be			Plaintiffs' Proposed	Identification Of All References From The Specification And Prosecution
Construed	Patent(s)	Claim(s)	Construction	History And Identification Of Extrinsic Evidence Relied Upon ¹
To extract said	6,177,122	2	Plaintiffs disagree that this term requires special	Intrinsic evidence: '567 patent, Claims 9, 16, 18, col. 22, 11.
			construction, other than the	22-32, 53-55, 60-61;
			term "extract." See "extract"	'895 patent, Claim 15, col. 1, 11. 15-26,
			ароче.	col. 6, 1. 65-col. 7, 1. 3, col. 11, 11. 18-34,
			A 1 Dl +! #6.	(12) notice (Claims 1 2 5 10 12 col
			Applying Flantinis proposed	122 patent, Clanns 1, 2, 3-10, 12, col.
			term means to manipulate	'770 patent, Claims 10, 13, 15-24, 26,
			seeds or sprouts where the	col. 22, 11. 37-45, 50-51, 54-67, col. 23, 1.
			manipulation causes the	1-col. 24, 1. 4, col. 24, 11. 7-8;
			separation of component	Exh. 5F ('770 history) at 5F41.
			fractions of the seeds or	
			sprouts, and where at least one	The invention – '895 patent:
				col. 1, 11. 14-65;
			beneficial amounts of Phase II	col. 1, 1. 66 - col. 2, 1. 7;
			enzyme inducers and/or their	col. 2, l. 36 - col. 5, l. 67;
				col. 6, 11. 27-37;
				col. 6, 1. 65 - col. 7, 1. 3;
				col. 8, 11. 14-18;
				col. 11, 11. 37-60.
				Extrinsic evidence:
				Exh. 7 (Sybert Report), ¶¶ 24-44;
				Exh. 12 (Ziegler Depo), p. 42, 1l. 3-17;
				Exh. A (B000021-23);
				Exh. B (CSCUU36/3-84); Exh. C (CSCUU0680):
				Exh. D (CSC002976).

Y					Identification Of All References From
Ref.	Term(s) to be			Plaintiffs' Proposed	The Specification And Prosecution
No.	Construed	Patent(s)	Claim(s)	Construction	History And Identification Of Extrinsic Evidence Relied Upon ¹
16.	Said extract is	6,177,122	5	Plaintiffs disagree that this	Intrinsic evidence:
	dried, cooled,			term requires special	'567 patent, Claims 9, 16, 18, col. 22, 11.
	frozen, or freeze-			construction, other than the	22-32, 53-55, 60-61;
	dried			term "extract." See "extract"	'895 patent, Claim 15, col. 1, 11. 15-26,
				above.	col. 6, 1. 65-col. 7, 1. 3, col. 11, 11. 18-34,
					col. 22, II. 48-58;
				Applying Plaintiffs' proposed	'122 patent, Claims 1, 2, 5-10, 12, col.
				construction of "extract," this	21, 1. 55-col. 22, l. 34;
				term means that the fraction	'770 patent, Claims 10, 13, 15-24, 26,
				containing beneficial amounts	col. 22, II. 37-45, 50-51, 54-67, col. 23, l.
				of Phase II enzyme inducers	1-col. 24, 1. 4, col. 24, 11. 7-8;
				and/or their precursors is dried,	Exh. 5F ('770 history) at 5F41.
				cooled, frozen or freeze-dried.	
					The invention – '895 patent:
					col. 1, 11. 14-65;
					col. 1, 1. 66 - col. 2, 1. 7;
					col. 2, 1. 36 - col. 5, 1. 67;
					col. 6, 11. 27-37;
					col. 6, 1. 65 - col. 7, 1. 3;
					col. 8, 11. 14-18;
					col. 11, 11. 37-60.
					Extrinsic evidence:
					Exh. 7 (Sybert Report), ¶¶ 24-44;
					Exh. 12 (Ziegler Depo), p. 42, 11. 3-17;
					Exh. A (B000021-23);
					Exh. B (CSC003675-84);
					Exh. C (CSC000680); Exh. D (CSC002976).

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Document 43-3

Patent(s) Claim(s) Construction 6,177,122 6, 7, 8 Plaintiffs disagree that this term requires special construction, other than the term "extract." See "extract." above. Applying Plaintiffs' proposed definition of "extract," this term means the substance containing beneficial amounts of Phase II enzyme inducers and/or their precursors that results from manipulation of one or more of cruciferous sprouts, seeds, plants, and/or plant parts, where the manipulation causes the separation of component fractions of the cruciferous sprouts, seeds, plants, and/or plant parts.						Identification Of All References From
The extract 6, 7, 8 Plaintiffs disagree that this term requires special construction, other than the term "extract." See "extract" above. Applying Plaintiffs' proposed definition of "extract," this term means the substance containing beneficial amounts of Phase II enzyme inducers and/or their precursors that results from manipulation of one or more of cruciferous sprouts, seeds, plants, and/or plant parts, where the manipulation causes the eseparation of component fractions of the cruciferous sprouts, seeds, plants, and/or plant parts.	ef. Yo.	Term(s) to be Construed	Patent(s)	Claim(s)	Plaintiffs' Proposed Construction	The Specification And Prosecution History And Identification Of
Training surgering term requires special construction, other than the term "extract." See "extract" above. Applying Plaintiffs' proposed definition of "extract," this term means the substance containing beneficial amounts of Phase II enzyme inducers and/or their precursors that results from manipulation of one or more of cruciferous sprouts, seeds, plants, and/or plant parts, where the manipulation causes the separation of component fractions of the cruciferous sprouts, seeds, plants, and/or plant parts.		E	7 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7	0 1 0	Distiffe diagrams that this	Extrinsic Evidence Relied Upon'
		The extract	0,1//,122	0, /, 8	Piaintilis disagree that this	Intrinsic evidence:
					term requires special	'567 patent, Claims 9, 16, 18, col. 22, II.
					construction, other than the	22-32, 53-55, 60-61;
					term "extract." See "extract"	'895 patent, Claim 15, col. 1, 11. 15-26,
TI V					above.	col. 6, 1. 65-col. 7, 1. 3, col. 11, 11. 18-34,
77 V						col. 22, 11. 48-58;
S					Applying Plaintiffs' proposed	'122 patent, Claims 1, 2, 5-10, 12, col.
V					definition of "extract," this	21, 1. 55-col. 22, 1. 34;
w					term means the substance	'770 patent, Claims 10, 13, 15-24, 26,
					containing beneficial amounts	col. 22, 11. 37-45, 50-51, 54-67, col. 23, 1.
					of Phase II enzyme inducers	1-col. 24, 1. 4, col. 24, 11. 7-8;
			•••		and/or their precursors that	Exh. 5F ('770 history) at 5F41.
					results from manipulation of	
					one or more of cruciferous	The invention – '895 patent:
					sprouts, seeds, plants, and/or	col. 1, Il. 14-65;
					plant parts, where the	col. 1, 1. 66 - col. 2, 1. 7;
					manipulation causes the	col. 2, 1. 36 - col. 5, 1. 67;
					separation of component	col. 6, Il. 27-37;
					fractions of the cruciferous	col. 6, 1. 65 - col. 7, 1. 3;
					sprouts, seeds, plants, and/or	col. 8, Il. 14-18;
Exh. 7 (Sybert Report), ¶¶ 24-44; Exh. 12 (Ziegler Depo), p. 42, II. Exh. A (B000021-23); Exh. B (CSC003675-84); Exh. C (CSC000680); Exh. D (CSC002976).					plant parts.	col. 11, 11. 37-60.
Exh. 7 (Sybert Report), ¶¶ 24-44; Exh. 12 (Ziegler Depo), p. 42, ll. 3 Exh. A (B000021-23); Exh. B (CSC003675-84); Exh. C (CSC000680); Exh. D (CSC002976)						Extrinsic evidence:
Exh. 12 (Ziegler Depo), p. 42, 1l. 3 Exh. A (B000021-23); Exh. B (CSC003675-84); Exh. C (CSC000680); Exh. D (CSC0076)						Exh. 7 (Sybert Report), ¶¶ 24-44;
Exh. A (B000021-23); Exh. B (CSC003675-84); Exh. C (CSC000680); Exh. D (CSC002976).						Exh. 12 (Ziegler Depo), p. 42, 11. 3-17;
Exh. B (CSC003675-84); Exh. C (CSC000680); Exh. D (CSC002976).						Exh. A (B000021-23);
Exn. C (CSC00080);						Exh. B (CSC003675-84);
						Exh. D (CSC002976).

Claim(s) Plaintiffs' Proposed The Specification And Prosecution History And Identification Of Extrinsic Evidence Relied Upon	9, 10, 12 Plaintiffs disagree that this term requires special construction, other than the construction, other than the construction, other than the construction, other than the construction of "extract." See "extract." '895 patent, Claims 9, 16, 18, col. 22, 11. de-Seol. 7, 1. 3, col. 11, 11. 18-34, col. 22, 11. 48-58; Applying Plaintiffs' proposed construction of "extract," this col. 22, 11. 48-56, containing beneficial amounts of Phase II enzyme inducers and/or their precursors that results from manipulation of seeds, where the manipulation of component fractions of the col. 24, 1. 4, col. 24, 11. 78, col. 24, 11. 46-55; col. 27, 11. 35, col. 27, 13; col. 27, 14, 14, 18; col. 27, 17, Exh. A (Bo00021-23); Exh. A (Bo00021-23); Exh. A (Bo00021-23); Exh. B (CSC003675-84); Exh. B (CSC
Patent(s)	6,177,122
Term(s) to be Construed	Seed seed
Ref. No.	18.

Page 16 of 17

Term(s) to be Construed	Patent(s)	Claim(s)	Plaintiffs' Proposed Construction	The Specification And Prosecution History And Identification Of
50000	7 303 770	10 13 15	Plaintiffs disagree that this	Extrinsic Evidence Relied Upon' Intrinsic evidence:
necovering said	011,505,1	16, 17, 18,	term requires special	The invention – '895 patent:
		19, 20, 21,	construction.	col. 1, 11. 14-65;
isothiocvanates		22, 23, 24.		col. 1, 1. 66 - col. 2, 1. 7;
		$\frac{2}{26}$	This term means that,	col. 2, 1. 36 - col. 5, 1. 67;
			following the separation of the	col. 6, 11. 27-37;
			fraction containing sprouts	col. 6, l. 65 - col. 7, l. 3;
			and/or seeds from the fraction	col. 8, 11. 14-18;
			containing the solvent, the	col. 11, 11. 37-60.
			fraction rich in glucosinolates	
			and isothiocyanates is retained	
			for further processing.	
At a temperature	7,303,770	10, 13, 15,	Plaintiff disagree that this term	Intrinsic Evidence:
sufficient to		16, 17, 18,	requires special construction.	Hot water: '770 patent, col. 11, Il. 26-31;
inactivate		19, 20, 21,	20	COI. 19, II. 0-11.
myrosinase		22, 23, 24,	The temperature sufficient to	for the form of the contract o
enzyme activity		26	inactivate myrosinase enzyme	Cold organic solvents. 770 parent, col.
			activity will vary with the	y, II. 4-12, col. 21, II. 45-47.
			solvent chosen. Hot or bonning	1805 notant: 001 0 11 7-13: 501 11 11
			water will inactivate	32-24. col 21 11 22-26
			myrosinase activity, as with $v_0 = v_0 = v_0$ organic	44-44, 001. 41, 11. 44 40.
			solvents	The invention – '895 patent:
				col. 1. 11. 14-65;
				col. 1, 1. 66 - col. 2, 1. 7;
				col. 2, 1. 36 - col. 5, 1. 67;
				col. 6. 11. 27-37;
				col. 6, 1. 65 - col. 7, 1. 3;
				501 8 11 14-18

Identification Of All References From The Specification And Prosecution History And Identification Of Extrinsic Evidence Relied Upon col. 11, 11. 37-60.	Intrinsic Evidence: '895 patent, col. 5, Il. 45-51; col. 8, Il. 28-33, 58-60; col. 12, Il. 44-49; col. 15, Il. 8-10; col. 17, Il. 1-10; ing the '895 patent, col. 1, Il. 14-65; col. 7, l. 66-non-toxic col. 2, l. 7; col. 2, Il. 19-43; col. 6, l. 65-hat forms col. 7, l. 3; col. 8, Il. 14-18. ure.
Plaintiffs' Proposed Construction	Plaintiffs disagree that this term requires special construction. This term means mixing the plant tissue with the non-toxic solvent in a manner that forms a homogeneous mixture.
Claim(s)	21
Patent(s)	7,303,770
Term(s) to be Construed	Homogenizing said plant tissue with said nontoxic solvent.
Ref. No.	21.